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AB-496 Cremation of veterans with the United States flag. (2021-2022)

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Assembly Bill No. 496

CHAPTER 118

An act to amend Section 8344.5 of the Health and Safety Code, relating to crematories.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 496, Chen. Cremation of veterans with the United States flag.

Existing law requires that a crematory knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary. Existing law authorizes a crematory to incinerate one or more American flags under specified conditions, including when the flag is in such condition that it is no longer a fitting emblem for display. Existing law requires a crematory that incinerates an American flag or flags to maintain an accurate record of all American flags incinerated, as specified.

This bill would authorize a crematory, upon request of the person with the authority to dispose of the remains, to cremate the remains of a person who was a member of a branch of the United States military with a single American flag. The bill would exempt a flag that is incinerated in this manner from the recordkeeping requirements for incinerating a flag.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8344.5 of the Health and Safety Code is amended to read:

8344.5. (a) Except as provided in subdivision (b) or (c), a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

(b) Upon request of the person with the authority to dispose of the remains, a crematory may cremate the remains of a person who was a member of a branch of the United States military with a single American flag. A flag incinerated pursuant to this subdivision is not subject to the requirements of Section 8344.6.

(c) (1) Notwithstanding any other law, a crematory regulated by the Cemetery and Funeral Bureau also may incinerate one or more American flags, under the following conditions:

(A) Incineration of the flag or flags is performed separately from the cremation of human remains, as provided in subdivision (a).

(B) Incineration of the flag or flags is in accordance with Section 8(k) of Title 4 of the United States Code.

(C) Incineration of the flag or flags occurs within one week before or after any of the following:

(i) Presidents' Day.

(ii) Memorial Day.

(iii) Flag Day.

(iv) Independence Day.

(v) Veterans' Day.

(2) This subdivision does not attempt to restrict or otherwise infringe upon any person's right to free expression under the First Amendment to the United States Constitution.